



Agenda Item Number: _____

BERNALILLO COUNTY BOARD OF COUNTY COMMISSIONERS

Meeting Date: April 25, 2010

Department: Zoning, Building, Planning **Staff Contact:** Brennon Williams, Zoning Admin

TITLE: PUBLIC HEARING: Appeal of the Board of Adjustment's determinations to deny approval of a variance of 5.4 feet to the required rear yard setback distance and a variance of 1.44 feet to the required side yard setback distance for an unpermitted dwelling unit (CO-20100009/BA-20100007/ZA-90105 and CO-20100010/BA-20100008/ZA-90106).

BOARD OF ADJUSTMENT RECOMMENDATION:

Denial of the appeals

SUMMARY:

On April 7, 2010, the Board of Adjustment (BA) voted to deny both variance appeals (6-0-1, Commissioner Sanchez abstaining), thereby upholding the previous decisions of the Zoning Administrator. The appeals concerned requests to allow the continued construction of an unpermitted dwelling unit located just 9.6 feet from the rear property line (BA-20100007/ZA-90105) and 4.06 feet from the southern side property line.

The board determined that the appellant did not meet the criteria necessary for granting of the requested variances, concluding that the owner "failed to demonstrate peculiar, exceptional, and unusual circumstances in connection with the property", and that "no evidence was provided" to address how the variance requests were limited to the extent to allow reasonable use of the land (Attachment 2).

The Comprehensive Zoning Ordinance of Bernalillo County authorizes the Board of County Commissioners (BCC) to affirm, deny, change, or modify the decision of the BA, or in lieu thereof, make such other or additional determination as the BCC deems proper [reference Section 24.B.4.f.(2)].

ATTACHMENTS:

1. Appeal application and submitted materials
2. BA's Notice of Decision (April 12, 2010)
3. BA packet (April 7, 2010)
4. Minutes from April 7, 2010, BA hearing

STAFF ANALYSIS SUMMARY

ZONING, BUILDING & PLANNING:

Staff recommends denial of the appeals.